

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LUIS ZARATE, individually and on behalf of all others
similarly situated,

Plaintiff,

-against-

NEW GREEN EMPORIUM CORP. d/b/a GREEN
EMPORIUM; HYOUN AH KIM; JUN KYU KIM; and
HYON CHON SONG, jointly and severally,

Defendants.

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DATE FILED: 09/11/2020

1:17-cv-00670-MKV

DEFAULT JUDGMENT

MARY KAY VYSKOCIL, United States District Judge:

Before the Court is a Motion for Default Judgment against the sole remaining Defendant Jun Kyu Kim in which Plaintiff also seeks attorneys' fees and costs.

Previously, on August 11, 2020, the Court issued an Order after holding a fairness hearing in this FLSA case pursuant to *Cheeks v. Freeport Pancake House*, 796 F.3d 199 (2d Cir. 2015), approving a settlement agreement and dismissing the case as to all Defendants except Defendant Jun Kyu Kim, who was not a party to the settlement agreement [ECF No. 64]. On August 28, 2020, the Clerk of Court issued a Certificate of Default as to Defendant Jun Kyu Kim [ECF No. 67]. Plaintiff moved for default judgment as to Defendant Jun Kyu Kim on that same date [ECF No. 68]. The Court reviewed the Motion and supporting papers and, on August 31, 2020, issued an Order To Show Cause and Scheduling Order ordering Defendant Jun Kyu Kim to appear at a Default Judgment Hearing and to file a letter why Default Judgment should not be entered and any opposition in response to Plaintiff's Motion [ECF No. 75]. Plaintiff served the August 31 Order, Plaintiff's Motion, and supporting papers on Defendant Jun Kyu Kim on September 1, 2020 [ECF No. 77]. The Court held a Default Judgment Hearing on September 11, 2020. Plaintiff appeared by counsel, but no one appeared for Defendant Jun Kyu Kim.

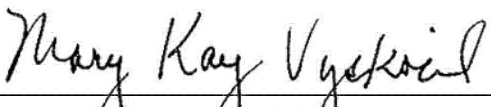
Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. A Default Judgment in favor of Plaintiff against Defendant Jun Kyu Kim is hereby granted;
2. Plaintiff shall be entitled to judgment against Defendant Jun Kyu Kim for damages in the amount of \$98,597.76, consisting of the following:
 - \$44,298.88 in unpaid wages
 - \$44,298.88 in liquidated damages pursuant to New York Labor Law Section 663(1) and
 - \$10,000 in statutory damages pursuant to New York Labor Law Section 198(1-b), (1-d)**together with** pre-judgment interest thereon at 9% from December 1, 2013, **plus** attorneys' fees and costs in the amount of \$12,952.05. Plaintiff shall also be entitled to recover post-judgment interest pursuant to 28 U.S.C. § 1961. The judgment against Defendant Jun Kyu Kim shall be subject to an offset of \$22,000 pursuant to amounts paid under the settlement agreement with the other Defendants in this action.
3. Pursuant to New York Labor Law Sections 198(4) and 663(4), if any such amounts of this judgment remain unpaid upon the expiration of ninety days following issuance of this judgment, or ninety days after expiration of the time to appeal and no appeal is then pending, whichever is later, the total amount of this judgment shall automatically increase by fifteen percent (15%).
4. This judgment in favor of Plaintiff shall be entered as a final judgment against Defendant Jun Kyu Kim.

The Clerk of Court is respectfully requested to close this case.

SO ORDERED.

Date: September 11, 2020
New York, NY


MARY KAY VYSKOCIL
United States District Judge